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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

IN RE ANTHONY M., a Person Coming Under the Juvenile Court Law.	H022524 (Monterey County Super. Ct. No. J28451)
THE PEOPLE, Plaintiff and Respondent, v. ANTHONY M., Defendant and Appellant.	

Appellant contends the trial court abused its discretion by committing him to the California Youth Authority. We affirm.

In November 2000, pursuant to a plea bargain resolving the allegations of a Welfare and Institutions Code section 602 petition concerning appellant, appellant admitted as true an allegation in an amended petition that he committed grand theft from a person, in violation of Penal Code section 487, subdivision (c). In return, the prosecutor dismissed one count of robbery in violation of Penal Code section 211, one count of attempted theft in violation of Penal Code sections 484 and 664, one count of battery on a police officer in violation of Penal Code section 243.1 and one count of resisting a police officer in violation of Penal Code section 148. In January 2001, the juvenile court committed

appellant to the California Youth Authority for a maximum term of three years and four months with credit for 303 days of custody.

The circumstances underlying the one count appellant admitted are that appellant and a friend robbed an ice cream vendor of money and ice cream in August 2000. The parties agreed that the facts of the dismissed counts could be considered during the dispositional hearing, although appellant did not admit the truth of the facts underlying those counts. Those counts are based on a variety of circumstances. Immediately after the theft from the first ice cream vendor, another ice cream vendor reported that a teenager matching appellant's description had tried to steal ice cream from him. In October 2000, a bicycle was taken from outside a store and recovered later beside a pool at a nearby hotel. Appellant's brother later told police appellant had taken the bicycle. While housed at juvenile hall following this incident, appellant covered the windows of his cell and barricaded his door. When officers entered the cell, appellant began spitting, kicking and screaming threats at the officers. Pepper spray was ineffective and appellant was physically restrained and removed from the unit.

Appellant had been the subject of various other juvenile petitions. In September 1996, he was charged with theft and unlawful driving or taking of a vehicle, two counts of burglary and attempted burglary. In November 1996 he admitted one burglary count and was placed on probation. In January 1997, appellant was the subject of a supplemental Welfare and Institutions Code section 777 petition for failing to obey school rules and fighting in class. In January 1998, appellant was charged with burglary, two counts of attempted burglary, prowling, possession of burglar's tools, and violation of probation. He was sentenced to 30 days in juvenile hall and continued as a ward of the court. In June 1998, appellant was charged with petty theft, trespassing and violation of probation. He was sentenced to 60 days in juvenile hall and continued as a ward of the court. In February 2000, appellant was sentenced to 69 days in juvenile hall and continued as a ward of the court for battery on a police officer resulting in injury and escape from juvenile hall.

Appellant also admitted two counts of a Merced County juvenile court petition charging him with assault with a deadly weapon and violation of probation. This case was transferred to Monterey County for disposition with the instant case.

During the course of this case, appellant was evaluated by three mental health professionals. Initially, appellant's counsel expressed concern about his competency and the court appointed a psychiatrist to prepare a report pursuant to Penal Code section 4011.6.[1] The psychiatrist, Dr. Taylor Fithian, reported to the court that appellant did not appear to be in imminent danger to himself or others or was gravely disabled. Defense counsel objected to the sufficiency of this report and a psychologist, Dr. James B. Eddy, II, was appointed to examine appellant. Dr. Eddy concluded that while appellant may have a possible propensity towards a thought disorder or mood disorder, he was not presently delusional or experiencing any hallucinations. The court denied appellant's request that he be allowed to represent himself and for a different court appointed attorney.

In late October 2000, a mental health assessment of appellant prepared by Siva Yoganathan, a clinical psychiatrist, concluded appellant had a psychotic disorder and recommended continued medication as treatment.[2] After appellant was placed in a hospital by the mental health department, he was returned to court. The court said the hospital reported appellant was bipolar but competent to stand trial. Appellant eventually entered into the admission agreement described above.

At appellant's dispositional hearing, defense counsel expressed surprise at the probation department recommendation of the California Youth Authority. She quoted from

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[1] Penal Code section 4011.6 provides in part: "In any case in which it appears to the person in charge of a county jail, city jail, or juvenile detention facility, or to any judge of a court in the county in which the jail or juvenile detention facility is located, that a person in custody in that jail or juvenile detention facility may be mentally disordered, he or she may cause the prisoner to be taken to a facility for 72-hour treatment and evaluation . . . ."

[2] Appellant told the court "I didn't hear [any] voices. I don't see why I [have] to take this medicine."

the probation report saying "the minor has not received all of the services available in this county to address his conduct." Counsel argued appellant should be sent to the Youth Center, and that appellant desired that as well. The court said, "Anthony, clearly you have got some real issues and they are not issues that are your fault. I'm not saying these things are your fault. But because of a combination of factors in your life, you have got some very serious issues that we need to deal with. [¶] . . . You are not the type of young person, at least the type of offenses that you have committed are not the type that would normally cause a young person to be committed to the California Youth Authority. [¶] But at the same time, based on my knowledge of the programs available at the Youth Center and the fact that it really is a minimum to medium security facility, most importantly the fact that they really don't have the mental health component that's available that should be available for somebody with your background and the issues that you need to deal with, I think that it is necessary and in your benefit to commit you to the California Youth Authority so you can receive the appropriate treatment and types of programs that will benefit you." The court explained, "Because of the very significant mental issues that you need, that you have, I don't feel that any local programs, including the Youth Center would be appropriate."

Appellant contends the trial court abused its discretion by committing him to the California Youth Authority. In determining the appropriate disposition for a minor found to be a ward of the court, the court must focus on both the need for public protection and the best interests of the minor. (Welf. & Inst. Code, § 202; *In re Jimmy P*. (1996) 50 Cal.App.4th 1679, 1684.) If the court decides a commitment to the Youth Authority is appropriate, it must be "fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the Youth Authority." (Welf. & Inst. Code, § 734.)

A juvenile court's decision to commit a minor to the California Youth Authority will be reversed on appeal only upon a showing that the court abused its discretion. *(In re*

Tyrone O. (1989) 209 Cal.App.3d 145, 151.) "An appellate court will not lightly substitute its decision for that rendered by the juvenile court. We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them. [Citations.]" (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395.)

In determining whether substantial evidence exists in the record to support the commitment, the court must review the record "in light of the purposes of the Juvenile Court Law." (*In re Michael D., supra,* 188 Cal.App.3d at p. 1395.) Those purposes include the protection and safety of the public, the treatment and guidance of minors which holds them accountable for their behavior, and punishment consistent with rehabilitation. (Welf. & Inst. Code, § 202; see also, *In re Michael D., supra*, 188 Cal.App.3d at p. 1396; *In re Teofilio A.* (1989) 210 Cal.App.3d 571, 575-576.)

Appellant argues that "he should have been given at least one chance at the least restrictive placement of the Youth Center before the Court took the drastic step of committing him to CYA." Substantial evidence supports the court's determination that the Youth Center placement was unacceptable. The probation report states "The Youth Center interview concluded that the minor would not benefit from the program. Although the minor may not be a danger, he apparently had shown a need for Mental Health Services beyond the scope and ability of the Youth Center Program to control or handle. [¶] . . . The least restrictive environment that provides the structure needed is the Youth Center. However, the Youth Center is not capable of meeting the minor's needs." The trial court did not abuse its discretion in committing appellant to the California Youth Authority.

The judgment is affirmed.

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Elia, J.

WE CONCUR:

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Premo, Acting P.J.

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Mihara, J.